

the level of said electrolyte is from about 0.75% to about 2.5% by weight of the composition.

B¹
cont 8

3. (Amended) The composition of Claim 2 wherein said fabric softener has a phase transition temperature of less than about 20°C; said principal solvent [is present at a level of from about 3% to about 8% and] has a ClogP of from about -1 to about 1; and the level of said electrolyte is from about 1% to about 2% by weight of the composition.

B²
pub 2
C²

28 (Twice amended) The composition of Claim 1 comprising:
principal solvent having a ClogP of from about -2.0 to about 2.6 at a level that would not provide a stable composition in the absence of said electrolyte and/or phase stabilizer, the level of principal solvent being less than about 8% [15%].

REMARKS

In the action mailed August 31, 2000, the rejections of Claims 1-5, 7, 15-18 and 26-28 under 35 U.S.C. §103(a) as being unpatentable over Wahl et al., US 5,759,900 ("Wahl"), and of Claim 29 as being unpatentable over Wahl in view of Wahl et al. US 5,545,340 were maintained. All other rejections have been withdrawn.

The claims have been amended to further distinguish them from the prior art. Support for the amendments concerning the principal solvent is found on pages 19-23 of the specification. No new matter has been added.

The Present Invention

The present invention is directed to clear or translucent fabric softening compositions that comprise a fabric softening compound, principal solvent and high levels of electrolyte. It has been found that high levels of electrolyte in such compositions provides unexpected benefits, namely, it enables the use of solvents materials that would not otherwise provide a clear or translucent fabric softening composition and further, allows the formulator to prepare clear or translucent fabric softening compositions using lower levels of principal solvent than was known prior to the present invention. The claims of the application have been

amended to reflect that such compositions are possible with a lower level of solvent in the presence of such an electrolyte.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-5, 7, 15-18 and 26-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wahl et al., US 5,759,900 ("Wahl"). Specifically, it is alleged that Wahl teaches a liquid fabric softening composition that may be clear containing 2-80% fabric softener active, up to 40% of a principal solvent and optionally, 0-2% of an electrolyte, namely, magnesium and calcium compounds. It is to be noted that Wahl teaches the use of principal solvents that have a ClogP value that is between about 0.15 to about 0.64. See col. 3, line 16.

Wahl teaches the use of principal solvent in an amount less than 40%, preferably from about 10% to about 38%, more preferably from about 12% to about 25% and even more preferably from about 14% to about 20%. See col. 3, line 13 *et seq.* In the examples, Wahl teaches the use of a combination of principal solvents at levels not less than 20% of the composition. There is no teaching or suggestion in Wahl that a clear or translucent fabric softening composition may be prepared using a principal solvent or mixture of principal solvents at a level less than about 10%.

It has also been alleged that Wahl teaches the optional use of an electrolyte at levels of between about 0% to about 2% to improve the viscosity of the finished softening composition. Wahl however, fails to teach or suggest that the use of an electrolyte at high levels, defined in the present claims as a level between about 0.5% and about 10%, will provide (a) the same or better stability with less principal solvent or (b) will allow the use of principal solvent materials that have ClogP values outside the range of from about 0.15 to about 0.64. Therefore, the presence of an electrolyte is required in order to reduce the amount of principal solvent that would have otherwise been required to achieve a clear or translucent composition.

Applicants maintain that absent an understanding of the features of the present invention it would not have been obvious to make a clear or translucent fabric softener composition that comprises less than about 10% principal solvent. There is no teaching or suggestion in Wahl that lesser amounts of principal solvents may be used to make such compositions. Therefore, Applicants

respectfully request the withdrawal of the rejection of Claims 1-5, 7, 15-18 and 26-30 under 35 U.S.C. §103(a).

Claim 29 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Wahl in view of Wahl et al. US 5,545,340 (the '340 Patent"). The '340 Patent likewise fails to teach or suggest that a clear or translucent fabric softening composition may be prepared with such a low level of principal solvent. Therefore, the combined teachings of Wahl and the '340 Patent do not disclose, suggest or render obvious the claimed compositions.


Allowable Subject Matter

Applicants acknowledge and are very appreciative of the Examiner's comments concerning the allowable subject matter that may exist in Claim 30. However, Claim 30 is believed to be further patentable over the cited art because of the low level of solvent that is required to form a clear or translucent fabric softening composition.

* * * * *

Applicants respectfully request reconsideration of this application in view of the amendments set forth above and the remarks contained herein. The claims are believed to be in condition for allowance and an early notice thereof is respectfully requested.

Respectfully submitted,

By: 
Frank C. Turner
Attorney for Applicant(s)
Registration No. 39,863
(513) 513 626 3388

February 22, 2001
Cincinnati, Ohio